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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,876	08/27/2003	Frank Reineke	J010-3478	4890

7590 02/14/2008
LACKENBACH SIEGEL
One Chase Road
Scarsdale, NY 10583

EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

MAIL DATE	DELIVERY MODE
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02/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/648,876	Applicant(s) REINEKE, FRANK	
	Examiner Gregory J. Strimbu	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/26/07 + 4/13/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 16-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

It should be noted that double brackets are only to be used to delete 5 or fewer consecutive characters when amending the claims. Thus, "[[or C-form]]" on line 3 of claim 1 is improper. See 37 CFR 1.121.

Election/Restrictions

Applicant's election of the invention of Group I in the reply filed on August 14, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 16-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 14, 2006.

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The specification to which the oath or declaration is directed has not been adequately identified. See MPEP § 602.

Note that the Oath filed July 12, 2004 identifies the specification as US serial number 10/649,165, however, the present application has the serial number 10/648,876.

Drawings

The drawing correction filed March 26, 2007 has been approved.

The drawings, however, are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first sections having a different length than the second sections must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Figure 2 is objected to because it fails to use the proper cross sectional shading. Note that the section 2 is shown with a metal cross sectional shading, however, the

section 2 comprises a plastic. See MPEP 608.02. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because "a flexible reinforcement" on line 2 is confusing since it is unclear if the applicant is referring to the flexible reinforcement set forth above or is attempting to set forth another reinforcement in addition to the one set forth above. On line 3, "softer" is confusing since it is unclear what the sections are softer than. On line 5, "harder" is confusing since it is unclear what the sections are harder than. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: recitations such as "[sic: section]" on line 20 of page 7 are confusing since it is unclear if the recitation is intended to be part of the specification or is intended to be deleted.

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested the applicant amend the title to include the composite composition of the reinforcement and to delete the references to the method and device for producing the seal.

Claim Rejections - 35 USC § 112

Claims 1-15, 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "generally soft" on line 6 of claim 1 and "rigid" on line 8 of claim 1 render the claims indefinite because they are relative terms whose meaning cannot be readily ascertained by one with ordinary skill in the art and are not defined by the specification. Recitations such as "a different length as said second sections" on line 3 of claim 2 are grammatically awkward. Recitations such as "said at least one of said sections" on line 2 of claim 3 render the claims indefinite because they lack antecedent basis. Recitations such as "sections" on line 3 of claim 3 render the claims indefinite because it is unclear to which one of the plurality of sections set forth above the applicant is referring. It should be noted that reference characters enclosed within parentheses are not considered to be part of the claim. It appears that the recitation "plane" on line 4 of claim 8 should be changed to --planes-- to avoid confusion. Recitations such as "is selected a synthetic material" on line 3 of claim 12 are grammatically awkward and confusing.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-9, 12-15, 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Shigeki et al. (US 4,676,856). Shigeki et al. discloses a strand-form vehicle seal 1, equipped with a flexible reinforcement 11 that defines a longitudinal

direction and has a generally U-shaped cross section in planes generally normal to said longitudinal direction, wherein said flexible reinforcement forms a strand of at least two different substances, including first individual sections of a nonmetallic, generally soft-elastic material (not numbered, but comprising the rubber material of the reinforcement 11 as set forth on lines 45-47 of column 5) together with second individual sections of another nonmetallic, however dimensionally stable and rigid material 14 that is harder than the material of said first sections, with the individual sections of the reinforcement being disposed along said longitudinal direction intermittently alternating one after the other because the rubber of the base portion will extend between the sections of the reinforcement 14 as shown in figure 5; wherein the first sections have a different length as the second sections as shown below; wherein the lengths of said at least one of said sections and sections vary within the strand or have the same length within the strand depending upon how one chooses the length of each one of the sections; wherein the nonmetallic material forming the second sections is a synthetic material as set forth on lines 21-25 of column 5; wherein said reinforcement strand 14 is ensheathed partially with several soft materials 12a and 12b; wherein the ensheathing materials enclose at least one hollow volume as shown in figure 4.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shigeki et al. as applied to claims 1-3, 5-9, 12-15, 24 and 25 above, and further in view of Drozd et al. (US 6,652,952). Drozd et al. discloses a seal comprising a soft elastic material 14 comprising a thermoplastic elastomer (see column 3, lines 36-37).

It would have been obvious to one of ordinary skill in the art to provide Shigeki et al. with a thermoplastic elastomer construction, as taught by Drozd et al., to increase the longevity of the seal.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shigeki et al. as applied to claims 1-3, 5-9, 12-15, 24 and 25 above, and further in view of Takeuchi et al. (US 5331767). Takeuchi et al. discloses the use of an injection molding process for forming a seal 20. See column 4, lines 5-6.

It would have been obvious to one of ordinary skill in the art to manufacture Shigeki et al. with an injection molding process, as taught by Takeuchi et al., to produce a seal with increased tolerances.

Response to Arguments

Applicant's arguments filed March 26, 2007 have been fully considered but they are not persuasive.

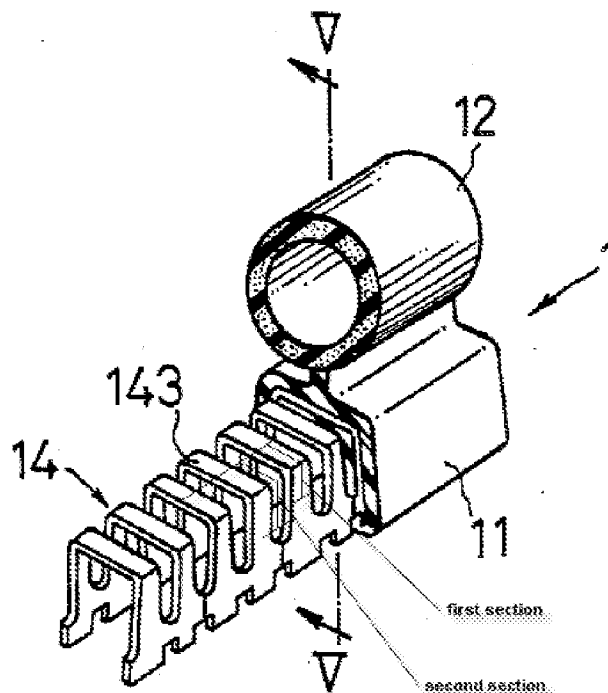
Regarding the applicant's comments concerning Shigeki et al., the examiner respectfully disagrees. As illustrated below, the claim limitation "sections" can mean

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any part of the core member 14 and its extruded covering. Thus, the "sections" are discontinuous and can vary in length depending upon how one chooses to define a "section". The applicant's comments concerning Shigeki et al. failing to disclose two different materials whereby one material is continuously interrupted by pieces of the other material are not persuasive because they are not supported by the claim language.



FIG. 4



Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory J. Strimbu/
Primary Examiner, Art Unit 3634